

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date: 4-10-68

D. C. Form No. 106A Rev.

8

TITLE OF CASE

ATTORNEYS

Warren Niece, a minor, by and
through Jim Niece, his father
and next friend, and Jim
Niece, individually,

vs.

Sears, Roebuck and Co.
Deft. and Third party pltf.

vs.

Westinghouse Electric Corporation
Third Party Defendant

For plaintiff:

Thomas R. Brett
810 Franklin Building
Tulsa, Oklahoma 74103

For defendant:

David R. Milsten
Milsten, Milsten and Morehead
Thompson Building
Tulsa, Oklahoma 74103

Rucker & Tabor, and Donald G. Hopkins
P. O. Box 1439
Tulsa, Oklahoma 74101
- for 3rd party defendant

STATISTICAL RECORD

COSTS

DATE

NAME OR
RECEIPT NO.

REC.

DISB.

J.S. 5 mailed 3-1-68

Clerk

2-23-68 Brett
2-29-68 CD 37

15 00

15 00

J.S. 6 mailed 5-1-69

Marshal

Basis of Action: Fall on
escalator

Docket fee

Witness fees

Action arose at: Tulsa

Depositions

DATE	PROCEEDINGS	Date Order or Judgment Noted
2-23-68	Complaint, filed. x summons issued x	
3-13-68	Return on service of summons filed. Executed by serving copy upon the Sears, Roebuck and Co. by serving the Corporation Co., Service Agent, at Okla. City, Oklahoma on 3-5-68. h(USM \$4.00)h	
3-25-68	Defendant's application for extension of time within which to answer, filed. w	
3-25-68	Order extending time to answer until 4-10-68, filed. (MME)	
4-3-68	Defendant's answer, filed.	
4-10-68	Plaintiffs' demand for jury trial, filed. w	
8-1-68	Ordered that case is set for pre-trial on Fri., Aug. 9, 1968, at 10:15 a.m. (FD-J)w	
8-9-68	Pre-trial hearing held. Deft. files pre-trial statement and application to make Westinghouse Electric Corporation Third Party defendant in open court. Order signed and filed in open court allowing Westinghouse to be 3rd party deft. Third party complaint filed in open court. Plaintiff to prepare pre-trial order. Case set for jury trial October 14, 1968. (FD-J)w	
8-9-68	Summons issued on third party complaint. w	
9-4-68	Return on service of Third-Party Summons filed. Executed by serving Westinghouse Elect. Corp. by serving The Corp. Co. at Okla. City on 8-28-68. h(\$4.	
9-6-68	Pre-trial order, filed. (FD-J)w	
10-4-68	Depositions of Warren Dale Seefeldt and James Orville Niece, Jr., taken on 7-27-67 before Timoth Holmes, CSR, filed. w	
10-4-68	Depositions of William W. Mushrush, Joe Don Massey, Daniel C. Smith, and R. L. Anderson taken before Loyd J. Christesson, CSR, filed. (Fees: \$73.00 pd. by plaintiff)w	
10-4-68	Depositions of Warren Seefeldt and William Strain taken before Timothy Holmes, CSR, filed. (FEES: \$55.00 pd. by plaintiff)w	
10-8-68	Case is stricken from trial assignment of 10-14-68 at request of deft. and 3rd party defendant. (FD-J)w	
10-8-68	Answer of Westinghouse Electric Corporation to defendant and 3rd-party plaintiff, Sears, Roebuck and Co., 's Complaint, filed. ds <i>mailed</i>	
10-8-68	Motion to dismiss 3rd party complaint, filed. ds <i>mailed</i>	
10-8-68	Brief in support of 3rd party defendant's motion to dismiss 3rd party complaint, filed. ds <i>mailed</i>	
10-8-68	Answer of Westinghouse Electric Corp. to Deft. and Third-party plaintiff, Sears, Roebuck and Co., 's Complaint, filed. w	
10-8-68	Ordered that answer of third-party defendant Westinghouse Elec. Corp. may be filed instanter. (FD-J)w	
10-11-68	Ordered by the Court that the third-party plaintiff, Sears, respond to the third-party defendant's motion to dismiss third-party complaint, within 15 days, with supporting brief; and if the plaintiff has any interest in this matter, they likewise respond with brief in such time, if plaintiffs file nothing within said period of time the Court will assume that plaintiffs are not interested in this aspect of the case. (Fred Daugherty-Judge)n	
10-18-68	Plaintiffs' Interrogatories to Sears, Roebuck and Company, filed. ds	
10-18-68	Plaintiffs' interrogatories to Westinghouse Electric Corp., filed. ds	
10-30-68	Answer brief of Sears, Roebuck and Co., defendant and third-party plaintiff, filed. b <i>delivered to J-10</i>	
11-4-68	Answer of defendant, Sears, Roebuck & Third-party plaintiff to plaintiff's interrogatories, filed. m	
11-14-68	Order filed and entered that Third-Party Defendant's motion to dismiss Third-Party Plaintiff's Complaint is denied. (Fred Daugherty-Judge)h	
11-14-68	Answer of Westinghouse Electric Corporation to Plaintiff's Interrogatories filed. h	
1-2-69	Case set for pre-trial hearing on 2-5-69 at 10:15 A.M. (FD-J)h	(Contd. P. 32 Sheet No. 32)

DATE	PROCEEDINGS	Date Order or Judgment Noted
2-5-69	Pre-trial hearing held, ordered by the Court that parties file briefs simultaneously within 20 days, that case is to be set on the jury docket and that plaintiff prepare supplemental pre-trial order; and parties exchange list of witnesses within 10 days. (Fred Daugherty - Judge) b	
2-12-69	Case set for Jury Trial on Wed. 3-12-69 at 9:30 A M. (FD-J)h	
2-25-69	Pre-trial brief of plaintiffs, filed. m	
3-3-69	Supplemental pre-trial order, filed. (FD-J)m	
3-7-69	Supplemental Brief of 3rd Party Defendant filed. h	
3-10-69	Minute Order: Case stricken from the jury assignment of March 12, 1969, at request of the defendant Sears Roebuck and Co. (Fred Daugherty-J)h	
4-1-69	Case set for jury trial on Monday 4-21-69 at 9:30 a.m. (FD-J)m	
4-21-69	Journal entry of judgment, filed and entered, that pltf. Warren Niece recover against deft. Sears, Roebuck & Co. & 3rd-party deft. Westinghouse the sum of \$4,000.00, and that pltf. Jim Niece recover against deft. Sears & 3rd-party deft. Westinghouse the sum of \$1,500.00; that 3rd-party pltf. Sears, Roebuck & Co. take nothing; that each of pltf. who will recover from the defts. have the cost of their action. (FD-J)m Copies mailed to counsel b	
4-21-69	Case called for jury trial, parties represented and announce settlement has been made. James Niece sworn and testifies. Statements made. Journal Entry of Judgment signed in open Court. (Fred Daugherty - Judge) b	
4-24-69	Satisfaction and Release of Judgment filed by plaintiff Jim Niece. h	

DATE	PROCEEDINGS	Date Order or Judgment Noted